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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Sections 90.621(c) and)
(d) of the Commission's Rules and)
Regulations Concerning Separations)
Between 800 and 900 MHz Land)
Mobile Radio Systems in the)
Business and General Category)
Radio Service Pools)

RM- 8028

To: The Commission

PETITION FOR RULE MAKING
OF THE
NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.

The National Association of Business and Educational Radio, Inc. ("NABER") by its attorneys, respectfully submits, pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. §1.401, a Petition for Rule Making which seeks to amend Sections 90.621(c) and (d) of the Commission's Rules to provide for 40/22 dBμ contour separation between co-channel private land mobile radio stations in the Business and General Category Radio Services Pools. In support thereof, the following is shown:

I. BACKGROUND

NABER is a national, non-profit, trade association headquartered in Alexandria, Virginia, that represents the interests of large and small businesses that use land mobile radio communications as an important adjunct to the operation of their businesses and that hold thousands of licenses in the private land mobile radio services. NABER has five membership sections

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representing Users, Private Carrier Paging licensees, Radio Dealers, Technicians and Specialized Mobile Radio operators. **NABER's** membership comprises over 6,000 of these businesses and service providers holding thousands of licenses in the private land mobile services.

For the past 19 years, **NABER** has been the recognized frequency coordinator in the 450-470 MHz and 470-512 MHz bands for the Business Radio Service. **NABER** is also the Commission's recognized frequency coordinator for the 800 MHz and 900 MHz Business Pools, 800 MHz "old" conventional channels for Business eligibles and conventional SMR Systems, and for the 929 MHz paging frequencies. In its Report and Order in PR Docket No. 83-737, the Commission designated **NABER** as the frequency coordinator for all Business Radio Service frequencies below 450 MHz and, in a joint effort with the International Municipal Signal Association ("IMSA") and the International Association of Fire Chiefs ("IAFC"), the Special Emergency Radio Service frequencies.

In Docket No. 90-34, the Commission evaluated its procedures for granting waivers to permit spacings of less than seventy (70) miles between co-channel SMR Pool systems. In the proceeding, the Commission proposed to create standardized rules for short-spacing.¹

In its Comments and Reply Comments in response to the Further Notice of Proposed Rule Making, **NABER** proposed that the Commission

¹Further Notice of Proposed Rule Making, PR Docket No. 90-34, 6 FCC Rcd 975 (1991).

continue to utilize R-6602 curves in determining the distance at which stations may be assigned on a short-space basis. Specifically, NABER proposed that an applicant would use R-6602 curves, ensuring that the 22 dB μ F(50,10) contour of the interfering station does not overlap the 40 dB μ F(50,50) contour of the existing station.² NABER also suggested that where the 40 dB μ contour calculated by the above method does not generate at least a 20 mile contour, the contour will be increased to 20 miles. If a licensee's existing parameters generate a 40 dB μ contour in excess of 20 miles, NABER proposed that the licensee be protected for the actual 40 dB μ contour. NABER also proposed specific recommendations for short-spacing by ESMR systems and well as protection such systems should receive.

In response to NABER's comments as well as similar comments from other parties, the Commission adopted the 40/22 dB μ analysis method and developed a short-spacing "chart" which permits applicants to locate less than seventy (70) miles from co-channel systems based upon protecting the existing system's hypothetical parameters of 1000 watts ERP and 1000 feet HAAT.³ The Commission

²NABER originally proposed a 40/23 dB μ contour analysis. However, after meeting with technical personnel and representatives of other organizations, NABER determined that a 40/22 dB μ analysis was more appropriate.

³Report and Order, PR Docket No. 90-34, 68 RR 2d 968 (1991). The new chart is codified at 47 C.F.R. §90.621(b)(4).

stated that it would continue to grant waivers based upon a 40/30 dBμ analysis where appropriate.⁴

In adopting the new rule, the Commission in the Report and Order recognized that the 40/30 dBμ analysis is not "responsive to contemporary SMR operating conditions".⁵ The Commission agreed with the SMR industry that the "significant technological advancements in transmission methods and radio design have enabled reliable land mobile communications to extend beyond those areas anticipated in 1974 when the 40/30 dBμ criteria were developed."⁶

II. PETITION FOR RULE MAKING

Co-channel spacings for the Business and General Category frequencies are governed by Section 90.621(c) and (d) of the Commission's Rules. Instead of a seventy (70) mile rule, the rule states that frequency advisory committees will attempt to provide 40/30 dBμ protection for co-channel systems. The rule further states that this protection criteria will "typically" result in separations of seventy (70) miles.⁷

⁴Report and Order at n.44. The Commission statement that it will continue to grant of waivers based upon a 40/30 dBμ analysis is the basis of a Petition for Reconsideration filed by NABER.

⁵Report and Order at para. 13.

⁶Id.

⁷Several non-SMR parties requested in PR Docket No. 90-34 that the Commission also amend Section 90.621(c) and (d) during that proceeding, the Commission found that the request was outside the scope of the proceeding. Report and Order at n. 23.

Prior to 1991, few Business and General Category systems were located less than seventy (70) miles apart.⁸ Since that time, NABER has received an increasing number of requests for short-spacing utilizing a 40/30 dB μ analysis, using the existing system's actual operating parameters. As stated in its Comments in PR Docket No. 90-34 and in the Fleet Call proceeding, NABER is concerned that such short-spacing may result in the inability of the existing licensee to increase its power or make a minor change in its transmitter location, if necessary.⁹

In addition, the Business and General Category Pool channels were previously occupied primarily by single user or community repeater systems with fairly defined coverage needs. However, the lack of available SMR Pools channels in the major urban areas and the Commission's action in PR Docket No. 87-213 permitting the trunking of the General Category channels has resulted in a significant number of General Category and Business Pool channels being added to loaded, trunked SMR Systems.¹⁰ Such systems

⁸Distances of 105 miles are utilized for certain mountaintop sites in Southern California, while a grid as reflected in Section 90.621(b)(2) of the Commission's Rules is utilized for Northern California.

⁹This importance of the existing licensee retaining the flexibility to make minor modifications was recognized by the Commission in the Report and Order at paragraph 14.

¹⁰For example, the Commission recently granted a waiver to Advanced Radio Communication Services of Florida, Inc. for a wide-area, frequency reuse system. The proposal included 55 separate General Category, Business Pool and Industrial/Land Transportation channels in Southern Florida. The applicant requested 1000 watts ERP for each of its systems. The engineering analysis attached the applications utilized the 40/30 dB μ contour method.

typically have a need for a wider area of operation because of the variety of users on the system.

As a result of this trend, it has become necessary to reevaluate whether the 40/30 dB μ analysis is appropriate for the Business and General Category frequencies.¹¹ Since system designs in the Business and General Category Pools are becoming similar to the SMR Pool, NABER has the same concerns as expressed in its Comments in PR Docket No. 90-34 regarding co-channel spacing. Specifically, it is NABER's belief that the current rule as reflected in Sections 90.621(c) and (d) does not adequately protect co-channel systems. Therefore, NABER requests that the Commission amend Sections 90.621(c) and (d) to require 40/22 dB μ contour protection.¹²

Amendment of Sections 90.621(c) and (d) as proposed by NABER will conform the General Category and Business Pool to the interference standards for 800 MHz and 900 MHz SMR Pool systems which the Commission found appropriate in PR Docket 90-34. NABER believes that it is important that the Commission act quickly on

¹¹The Special Industrial Radio Service Association ("SIRSA") has already changed its contour analysis for Industrial/Land Transportation Pool frequencies in Southern California. In the area, SIRSA uses the height above the sea floor for its calculations. Although NABER is not requesting the inclusion of the Industrial/Land Transportation Pool and Public Safety Pool frequencies in this Petition, the Commission may find it appropriate to include the additional categories in this proceeding.

¹²NABER does not request that the Commission create a short-spacing chart similar to Section 90.621(b) or otherwise alter Section 90.621(c) or (d) or require co-channel protection or any specified operating parameter for the existing system.

this proposal in order to avoid interference which will occur as the pools become more densely packed with systems as is the SMR Pool.¹³

III. CONCLUSION

WHEREFORE, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission adopt a Notice of Proposed Rule Making and amend Sections 90.621(c) and (d) of its rules consistent with this Petition.

Respectfully submitted,

NATIONAL ASSOCIATION FOR BUSINESS
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¹³In anticipation of the Commission's rule change, NABER will immediately begin requiring applicants for spacings of less than seventy (70) miles to meet the 40/22 dB μ contour criteria. Where applicants still desire to utilize the 40/30 dB μ criteria specified in Sections 90.621(c) and (d) during the rule making proceeding, NABER will require such applicants to protect existing facilities for maximum power parameters (1000 watts ERP for sites at or under 1000 feet HAAT).